

SENATE, No. 3641

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED APRIL 19, 2021

Sponsored by:

Senator HOLLY T. SCHEPISI

District 39 (Bergen and Passaic)

SYNOPSIS

Directs DCA to establish online database of affordable housing settlement agreements and other declaratory judgment actions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT directing Department of Community Affairs to create
2 affordable housing declaratory judgment database and
3 supplementing P.L.1985, c.222 (C.52:27D-301 et al.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
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8 1. a. The Department of Community Affairs shall produce a
9 database that details the results of each declaratory judgment action
10 completed on or after January 1, 2015. The department shall
11 develop, maintain, and update the database based upon information
12 submitted to the department by the parties to the declaratory
13 judgment action, and the courts, and based upon information
14 obtained from any other sources. Upon request by the department,
15 the Mount Laurel-designated judges in the Superior court vicinages,
16 each municipality that is party to a declaratory judgment action, and
17 each other party to the action, shall provide the department with the
18 information necessary to develop the database. The database shall
19 be accessible to the public on the Internet website of the
20 department.

21 b. The database shall contain, but shall not be limited to:

22 (1) a list of the municipalities that have completed a declaratory
23 judgment action;

24 (2) the number of affordable housing units that, pursuant to a
25 declaratory judgment action, represent a municipality's fair share of
26 the need for affordable housing in its region, divided into the
27 rehabilitation share, gap-present need share, prospective need share,
28 and the unfulfilled prior-round obligation;

29 (3) the ratio of rental units to ownership units among the
30 affordable housing units in the municipality, and, as applicable,
31 among the units within the municipality's fair share obligation that
32 have not yet been constructed;

33 (4) the ratio of affordable units to market-rate units and total
34 number of affordable units and market-rate units mandated pursuant
35 to any declaratory judgment action among the housing units in the
36 municipality, and among the developments that, pursuant to the
37 settlement agreement, may be constructed in order to satisfy the
38 municipality's fair share obligation; and

39 (5) a list of the payments made by each municipality to each
40 other party to a declaratory judgment action, including but not
41 limited to the Fair Share Housing Center, for expenses associated
42 with a settlement agreement.

43 c. As used in this section, "declaratory judgment action" means
44 an action taken by a municipality to obtain a grant of repose in
45 Superior Court, in order to comply with the "Fair Housing Act,"

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 P.L.1985, c.222 (C.52:27D-301 et al.), including but not limited to
2 a settlement agreement entered in accordance with In Re Adoption
3 of N.J.A.C. 5:96 and 5:97 by New Jersey Council on Affordable
4 Housing, 221 N.J. 1 (2015).

5 d. The Commissioner of Community Affairs may adopt rules
6 and regulations, pursuant to the "Administrative Procedure Act,"
7 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of
8 this section.

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10 2. This act shall take effect immediately.
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13 STATEMENT

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15 This bill would direct the Department of Community Affairs to
16 produce a database that details each affordable housing declaratory
17 judgment action, including each settlement agreement entered by a
18 municipality in order to comply with the "Fair Housing Act,"
19 ("FHA") P.L.1985, c.222 (C.52:27D-301 et al.) since the beginning
20 of 2015. The database would be based on information submitted by
21 the parties to each action, the courts, and other sources. Upon
22 request by the department, the bill requires the courts, each
23 municipality, and each other party to the action, to provide the
24 information necessary. The database would be accessible to the
25 public on the department's website.

26 The database would contain:

27 (1) a list of the municipalities that have completed a declaratory
28 judgment action;

29 (2) the number of affordable housing units that, under the
30 completed action, represent the municipality's fair share of the
31 regional need for affordable housing, commonly referred to as its
32 fair share obligation;

33 (3) the ratio of rental units to ownership units amongst
34 affordable housing in the municipality, and, as applicable, among
35 the units within the municipality's fair share obligation that have
36 not yet been constructed;

37 (4) the ratio of affordable units to market-rate units and total
38 number of affordable units and market-rate units mandated pursuant
39 to any declaratory judgment action amongst housing in the
40 municipality, and among the developments that may be constructed
41 under the completed declaratory judgment action in furtherance of
42 the municipality's fair share obligation; and

43 (5) a list of the payments made by each municipality to each
44 other party to a declaratory judgment action, including but not
45 limited to the Fair Share Housing Center, for expenses associated
46 with a settlement agreement.

47 In 2015, having concluded that Council on Affordable Housing
48 was not capable of functioning as intended by the FHA, the New

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1 Jersey Supreme Court, through a decision in 2015, designated
2 “Mount Laurel judges” in the Superior Court vicinages to both
3 establish affordable housing obligations for New Jersey’s
4 municipalities and certify municipal plans to meet those obligations
5 through declaratory judgment actions. These actions were primarily
6 resolved through settlement agreements between the municipalities
7 and the Fair Share Housing Center, an affordable housing advocacy
8 organization based in Cherry Hill, New Jersey. This bill is meant to
9 enhance the transparency of these actions.